



# TARIFF GUIDELINES

## JUNE 2023





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## Definition of Terms

**'Utility'** means a water service provider licensed by WASREB to provide water services

**'Water Services'** means the supply of water, sewerage services and all other incidental services.

**'Tariff'** means the justified price charged for water service to cover the reasonable cost of providing the service.

**'Non-Revenue Water'** means water produced but not billed by way of physical or commercial losses.

**'Personnel Expenditure'** refers to salaries, allowances, allowable pension, and service.

gratuities payable to employees in the course of their employment

**'Operations and Maintenance (O&M) expenditure'** means all justified recurrent expenditure incurred by a utility during its business.

**'Justified'** means allowable under the water services regulations and standards to enable the sustainable provision of water services.

## 1.0 Introduction

The Water Services Regulatory Board (WASREB) is a regulatory state corporation established by the Water Act 2002; this law was repealed by the Water Act 2016 operationalized in April 2017. Section 70 (1) of the Water Act 2016 established WASREB with the principal object to protect the interests and rights of consumers in the provision of water services, while ensuring other stakeholders' interests are also safeguarded.

Accordingly, WASREB sets standards and enforces regulations that guide the sector in not only ensuring that consumers are protected and have access to efficient, affordable, and sustainable services but also, providing for the financial sustainability of Water Service Providers (WSPs), by allowing financing of operations, capital cost recovery and a return on capital that services-through ongoing investments.

Wasreb's statutory mandate is provided for under Section 72 of the Water Act 2016. The regulator sets, monitors and reviews rules and regulations to ensure water services provision is affordable, efficient, effective, and equitable. The powers and functions of WASREB under the Act are to:

- a) Determine and prescribe national standards for the provision of water services and asset development for water services providers.
- b) Evaluate and recommend water and sewerage tariffs to the county water services providers and approve the imposition of such tariffs in line with consumer protection standards.
- c) Set license conditions and accredit water services providers.
- d) Monitor and regulate licensees and enforce license conditions
- e) Develop a model memorandum and articles of association to be used by all water companies applying to be licensed by the regulatory board to operate as water services providers
- f) Monitor compliance with standards including the design, construction operation and maintenance of facilities for the provision of water services by the water works development bodies and the water services providers
- g) Advise the Cabinet Secretary on the nature, extent and conditions of financial support to be accorded to water services providers for providing water services
- h) Monitor progress in the implementation of the water strategy and make appropriate recommendation
- i) Maintain a national database and information system on water services
- j) Establish a mechanism for handling complaints from consumers regarding the quality or nature of water services
- k) Develop guidelines on the establishment of consumer groups and facilitate their establishment



- l) Inspect water works and water services to ensure that such works and services meet the prescribed standards
- m) Report annually to the public on issues of water supply and sewerage services and the performance of relevant sectors and publish the reports in the gazette
- n) Make regulations on water services and asset development which shall include business, investment and financing plans to ensure efficient and effective water services and progressive realization of the right to water services
- o) Advise the cabinet secretary on any matter in connection with water services
- p) Make recommendations on how to provide basic water services to marginalized areas.

Among the key functions of the WASREB as stipulated in Water Act 2016 Section 72 (b) is to '.... evaluate and recommend water and sewerage tariffs to the county water services providers and approve the imposition of such tariffs in line with consumer protection standards. The objective is to establish tariffs that balance commercial, social, and ecological interests by ensuring access to all while allowing Water Service Providers (WSPs) and Water Works Development Agency (WWDAs) (offering bulk supply) to recover justified costs.

The Regulatory Board will apply these Guidelines when setting the Customer Tariffs charged by Water Service Providers (WSPs) in their Service Areas. The WWDAs and the WSPs must follow these guidelines when submitting Tariff Adjustment Proposals for consideration by the Regulatory Board.

Compliance with these Guidelines is a condition of the Licence for Provision of Water Services granted to the WSPs and WWWDAs by the Regulatory Board. The Guidelines have been developed to be consistent with the model Licences developed by the Regulatory Board. The Regulatory Board recognizes that WSPs differ by category and size and has developed different requirements accordingly.

## **2.0 Tariff Policy**

This tariff policy will guide the entities of both national & county governments and other interested parties in developing tariffs as aligned to the laws and regulations applicable.

### **2.1 Tariff Objectives**

The five objectives below will guide tariff setting for water supply and sanitation:

- 1) Financial sustainability
- 2) Access to safe water as a Human Right
- 3) Efficiency
- 4) Conservation
- 5) Simplicity.

## 2.2 Guiding Principles

Tariff setting will be guided by the National Values and Principles as set out in Article 10 of the Constitution together with principles, together with Articles 43,60,69 & 232 the requirements in the WA 2016 and Water Service Regulations and shall be guided by the following principles: -

### 1. Sustainability

In setting tariffs, we must be cognizant that water is a finite resource which will be used efficiently and mindful of the needs of the current and future generations and in cognizance of maintaining the environmental reserve to ensure inter-generational and intra-generational existence.

### 2. Inter-governmental consultation and co-operation

Where necessary to the tariff process, the National and County Governments should conduct mutual relations based on consultation and cooperation.

### 3. Respect, protection, and fulfilment of human rights

The tariff-setting process will respect, protect, and fulfil the human right to clean and safe water in adequate quantities and the human right to reasonable standards of sanitation.

### 4. Affirmative action, equity, inclusivity, and equality

The tariffs will seek to enhance opportunities for vulnerable members of our population.

### 5. Consumer protection

The National Government shall develop tariffs for the protection of water consumers which county governments shall enforce and implement.

### 6. Efficiency and value for money

Every effort should be made in maximizing output per unit of public resources in water services provision and in maximizing the expected outcomes across the value chain.

### 7. Financing of functions

All water functions assigned at both levels of government should be adequately financed from levies.

### 8. Ring-fencing

Revenues generated from charges, fees, permits, and tariffs in the water sector should be used to promote water activities concerning the sub-sector only.

### 9. Public Participation as guided by CoK (2010)

### 10. User Pays Principle

Water resources will be recognized as an economic and social good and the application of the most efficient pricing model to ensure full cost coverage while meeting the social, economic, and environmental costs.

### 11. Good governance

Integrity, transparency, and accountability are mandatory constitutional principles set out in Art.10 and should be mainstreamed across the sector.

## 2.3 Interaction of Objectives:

The described objectives and guiding principles might be perceived as conflictive in their simultaneous achievement. The appropriate use of this guideline should allow the achievement of divergent objectives at the same time. The tariff structure can be designed e.g., to balance financial sustainability with affordability by including cross-subsidies between consumer groups and allowing for a lifeline tariff for the poor.

## 2.4 Chosen Approach for Tariff Regulation

The circumstances of Water and Sanitation services in Kenya influenced the Tariff approach adopted by the Regulator:

WASREB has chosen an approach which aims at ensuring that the WSPs cover their recurrent costs and allow for improved sustainable access to safe water for the poor. The immediate objective of tariff negotiations is to reach coverage of Operations and Maintenance costs while at the same time, performance improvements are achieved. Tariff adjustments will not be made without consideration of the ability to pay, especially for the poor and marginalized communities.

As a second step, the objective will be to move to the achievement of full cost recovery to ensure long-term sustainability. Once most WSPs reach full cost recovery, an advanced regulatory approach will be adopted.

## 2.5 Types of WSPs

Wasreb distinguishes between five types of WSPs.

### Type 1 – WSP in Urban Areas

The water services provider in this category is required to meet Full coverage of Operations and Maintenance between 100% and 150%.

- WSP should meet the capital and operation and maintenance costs of providing the licenced water services without recourse to public funds and may be able to service debt obligations.
- The aim is to ensure WSP's able to realize the discharge of financial debts.
- The increase of tariffs in this category is strongly tied to the achievement of acceptable performance levels.

### Type 2 – WSPs in Rural, Low-Income & Peri-Urban Areas

The water services provider in this category is required to meet Full coverage of Operations and Maintenance cost achieved but may not be able to meet capital costs and repayment of debts.

- The preferred position is to enable the water services providers in this category to meet the operation and maintenance costs of providing the licenced water services without recourse to public funds.
- WASREB aim to propose a Tariff level, for this category which will be able to help the utility to discharge financial debts, considering the ability to pay consumers and the performance and cost structure of the Provider.
- The increase of tariffs in this category is strongly tied to the achievement of acceptable performance levels.

### Type 3 – WSPs in Rural, Low-Income

The water services provider in this category is required to meet the operation and maintenance costs of providing the licenced water services and where necessary, there can be recourse to public funds.

In this category, the economic viability of the provider is a priority concern of WASREB, and consultative discussions may be necessary to secure subsidies from relevant governments.

The aim is to ensure the subsidy is performance-based and increases access to marginalized persons and enhances equity in service provision.

#### **Type 4 – Bulk Water Suppliers 1**

The bulk water supplier can meet the capital and operation and maintenance costs of providing the licenced water services without recourse to public funds; and

#### **Type 5 – Bulk Water Suppliers 2**

The bulk water supplier is unable to meet the capital and operation and maintenance costs of providing the licenced water services and will require recourse to public funds.

### **3.0 Types of Tariff Adjustments**

#### **a) Regular Tariff Adjustment (RTA)**

An RTA is a comprehensive review of the tariff undertaken no more frequently than a set period of years, a duration called the tariff period. The tariff period is typically three to five years to coincide with the planning cycle of the applicant. The approved RTA remains the same during the tariff period.

The Regulatory Board may set a shorter tariff period (not less than one year) in the event of an expected major change in the operating environment of the applicant in the short term, or insufficient data by the applicant.

The Forms required for submission of an RTA Proposal can be found in the Annex.

#### **b) Automatic Tariff Adjustment (ATA)**

The ATA is a comprehensive review of the tariff undertaken no more frequently than three to five years to coincide with the planning cycle of the applicant but the tariff changes every twelve months, during the Tariff Period, in line with inflation (Consumer Price Index). The annual changes to the tariff are determined by an index that is linked to the performance of the Applicant.

The conditions attached to ATA are as follows:

1. WASREB will implement *an index of* at least 50% of the overall inflation rate and not greater than the overall inflation rate;
2. The formula is to be applied to Applicants with at least 10,000 connections and which have a regular tariff approved after 1<sup>st</sup> July 2017, for the duration of the validity of the current tariff; and are not dependent on subsidy.
3. Upon attainment 150% O&M cost coverage, the utility's tariff is to be capped and indexation will not apply.

The indexation formula for tariffs is outlined in Annex 2.ATA may apply to Bulk Water Supply applicants as determined by the Water Services Regulatory Board.

### **c) Extra Ordinary Tariff Adjustment (ETA)**

At any time before the regular tariff review, a water services provider may, for good cause shown to the Regulatory Board, apply for an extraordinary tariff review. An application for an extraordinary tariff review shall, in addition to meeting the requirements for a regular tariff review, satisfy the Regulatory Board that, due to a change in circumstances which could not have been foreseen during the last regular tariff review or for some other justifiable reason, a tariff review is necessary to ensure a sustainable water service. An extraordinary tariff review, shall if approved by the Regulatory Board, be gazetted, and apply only until the end of the regular tariff period.

#### **4.0 Tariff Adjustment Process**

The process for Tariff adjustments is initiated by the WSP or BWSP (applicant). It shall follow the following process:

1. Preparing a tariff adjustment proposal in the prescribed format.
2. The WSP/ BWSP shall seek a resolution from the BOD on the proposed tariff adjustment.
3. The WSP shall seek a no objection from the respective County Government for its intention to seek a tariff adjustment.
  - 3.1 BWSP shall be required to have conducted a stakeholder Consultation with the respective county Governments and WSPs regarding the proposed tariff adjustment. Evidence of this will be submitted together with the application in step 4, together with a draft Bulk Water Supply Agreement (BWSA).
4. The WSP/ BWSP shall submit the "Tariff Adjustment Proposal" to the Regulatory Board, in the prescribed format accompanied by documents listed in Annex 3
5. Upon receipt at WASREB, the Application will be screened for completeness and sufficiency of the supporting documents. If complete & sufficient, the application shall move to the evaluation stage.
6. At the evaluation stage, the application will be assessed to determine:
  - 6.1 whether the costs proposed are justified,
  - 6.2 whether the projections made in the application are realistic and
  - 6.3 whether the proposed tariff structure is affordable to the consumers and will ensure utility sustainability. (*See Annex 4 for costs admissible for tariff adjustment*)
  - 6.4 During evaluation, the applicant may be asked to revise the application or provide additional information.
7. Following successful evaluation, the applicant and WASREB will hold a tariff negotiation meeting.

8. Following a successful tariff negotiation meeting, WASREB will inform the applicant with a copy to the County Government, the outcome of the tariff negotiation and the proposed tariff structure.
9. WASREB will carry out Public Consultation on the proposed tariff as per the requirements of Section 139 of the Water Act 2016.
10. WASREB will consider the input of the public consultation and determine whether the proposed tariff will be referred back to the WSP or be presented to the WASREB Board of Directors (BoD) for Approval.
11. Upon approval by the BoD, WASREB shall gazette the tariff with a 30 days' notice for implementation by the WSP.

This process shall take a maximum of six (6) months from the receipt of a complete application.

#### **4.1 Notice of Tariff Correction**

If the Regulatory Board identifies an error in the computation of the approved Tariff Adjustment or in the gazette notice, it shall send a Notice of Correction to the WSP/BWSP. The notice will indicate the error and require the WSP/WWDA to correct the error in the next billing cycle, or where the error has resulted in overcharging customers, to deduct the over charge from the customers' next water bill.

The notice of tariff correction shall be published in the Kenya Gazette and shall take effect from the date of gazettment.

#### **4.1 Submission and approval of Tariff Adjustment Proposals**

The WSP/WWDA may submit a Regular Tariff Adjustment Proposal for each Tariff Period during the Tariff Submission Period. The timing for the submission of Proposals is as follows:

The windows to make tariff applications to the regulator will be defined as follows:-

- New Applications - Open All Year Round
  - Indexation – 5<sup>th</sup> of July
  - Extra-Ordinary Tariff Adjustment – Open All Year Round
  - Regular Tariff Adjustment - Window 1:- February to March Deadline: last business day in March. Window 2: August – September, Last Business Day in Sep
- The Regulatory Board will only receive Tariff Adjustment Proposals as guided above each year. A WWDA/WSP that fails to submit within this period, must wait with their proposal submission until the following application period.
- Approved Tariff adjustments may include modifications and conditionalities set by the WASREB. The Regulatory Board will provide the revised figures in writing and provide a justification for the revisions. If the WWDA does not accept the decision of the Regulatory Board, it can request that the Regulatory Board review the decision. This request must

be made to the Regulatory Board within fifteen (15) working days and be accompanied by a justification for why the case should be reconsidered.

- The WSP must give one (1) month notice to the Customers before implementing the Tariff Adjustment.
- The WWDA (bulk Suppliers) must give WSPs one (1) month notice before implementing the Tariff Adjustment.
- The broad composition of the Directors of the Regulatory Board from both the private and public sector allows a balanced decision on the final tariff approval.

## **5.0 Information to Submit to WASREB**

### **5.1 Calculating the O&M Expenditure of WSPs/WWDAs**

The Regulatory Board requires the applicant to document costs of service provision of past years and to propose, and provide justification for, estimates of how much it will cost to deliver, in an efficient and cost-effective manner, the volume and quality of water services required by customers. The applicant should project their O&M costs for the current and for the entire period for which the tariff adjustment shall apply. Based on the projected O&M costs further analysis will be done to determine the average tariff.

Wasreb requires the tariff applicants to provide operational data on service provision of past years. The applicants must also propose, and justify, estimates of how much it will cost to deliver, in an efficient and cost-effective manner, the volume and quality of water services required by customers. The WSP/Bulk Provider should project their O&M costs for the current and for the entire period for which the tariff adjustment shall apply. Based on the projected O&M costs further analysis will be done to determine the average tariff.

#### **5.1.1 O&M Expenditure of the Applicant**

Operation and Maintenance Expenditure (O&M Expenditure) refers to the day-to-day costs of running a utility or bulk supply. Applicants must document historic costs and estimate future O&M as part of the Tariff Adjustment Proposal they submit to the Regulatory Board. In general, the Regulatory Board will allow the applicant to recover all O&M Expenditure that is reasonable and necessary to provide efficient service to customers during the Tariff Period. Reasonable and necessary O&M Expenditure may include, but is not limited to, the categories shown in Annex 3a.

#### **5.1.2 Regulatory Levy**

The Water Act 2016 Sections 89(1)(2) and 130 confers to Water Services Regulatory Board (Wasreb) powers to prescribe license fees payable by various licensees on the issuance of the license and at prescribed intervals thereafter.

Applicants will be required to pay a regulatory levy to the Regulator as per Gazette Notice 12188 of 2018 or any future adjustment notices.

## 5.2 Repayment of Debts

If the applicant has achieved 100% coverage of O&M costs, it should present information on its debts (if existing) and present a debt amortization plan. Debts could exist directly for the applicant or on the level of the WWDA – directly assigned to the applicant. Debts are in these cases already existing debts. New debts will be covered under investments (5.3). The repayments of debts are strongly affecting the liquidity of the companies. Depending on the height of the financial repayment burden the applicant might be able to cover the repayment of debts and at the same time start to calculate investments and/ or depreciation and therefore qualify as a WSP Type III.

## 5.3 Investments and Depreciation

Only applicants that already cover 100% of their O&M cost and that are repaying loans have to fill in the information on Investments and Depreciation (detailed information should be supplied through the investment plan). For the calculation of Investments and Depreciation, the plan of WASREB towards full cost recovery should be considered. The Applicant may apply for a higher tariff increase, if accompanied with the necessary information and the affordability of tariffs by consumers can be proved.

All investment proposals submitted to Wasreb for consideration should be accompanied by relevant design/layout plans and bills of quantities as applicable.

## 5.4 Production and Billed Volumes of Water

The applicant shall provide clear and realistic historical and projected figures for water production. The applicant is also required to provide historical data on billed volumes of the previous years. Any estimated quantities must be based on the latest available actual figures.

The applicant will be required to provide consumption patterns of their various consumer categories as well as within the anticipated bands of the proposed tariff as per the template in the tariff annexes. Any major deviations (increases or decreases) in one consumption category require explanation.

To justify the consumption pattern, Wasreb may request monthly billing data for specific years to be submitted in a prescribed format.

## 5.5 Tariff Structure

The Tariff Structure describes how different costs of water and sanitation services are charged to the different customers. It specifies how much (in each category of customers (Customer Class) pays for these services. The tariff structure should be used to design a “pro-poor” policy that allows for the provision of a lifeline tariff for poor households. This can be done by a “social block tariff”, charging a lower percentage of the average tariff (e.g., 50-70%) for the consumption of up to 6m<sup>3</sup>. The applicant must propose a method for pricing the services that will meet the tariff objectives. As part of this pricing method, the WSP's must propose:

- 1) An average tariff and a tariff Structure that determines how expenditures making up the total O&M costs will be recovered, for example,



- Through variable charges, per m<sup>3</sup> of water service provided.
  - Through “block” structures, with variable charges that change once a customer’s usage exceeds a certain volume.
  - Through a fixed charge for a water service connection.
- 2) Customer Classes that reflect the different costs imposed on the system by customers’ different usage patterns, different utilization rates, different equipment requirements, or different administrative requirements.
  - 3) A Tariff Structure that shows (in KES.) how much each customer class will pay for each unit of water consumed, for each connection type, and each month of service. When the Regulatory Board approves a license, the tariffs in place when the applicant’s license is issued will typically remain in effect (referred to as the “Initial Tariffs”) until new tariffs have been approved by the Regulatory Board.

The Regulatory Boards has established consumption blocks for the different consumer categories, and these are included in the tariff annex.

**Table 1 Below is a typical retail tariff structure for a WSP.**

Typical Tariff Structure		
Customer Category	Consumption Block in M <sup>3</sup>	Ksh.
Domestic	1-6	45
	7-20	50
	21-50	70
	51-100	80
	101-300	95
	300 and above	130

*Table 1: Typical Tariff Structure*

For Bulk Supply, a fixed bulk rate will be applied. As part of this pricing method, the applicant must propose an average tariff that determines how expenditures making up the total O&M costs, debt repayment and asset renewal will be recovered.

**Example of Bulk Tariff:** Ksh. 30 Per M<sup>3</sup>.

### **5.6 Variable Charges Based on volumetric (usage)**

The applicant will be required to meter all their customers. The WSP shall not bill any customer on zero consumption but only on actual volume consumed as per the conditions of the license. There will be no monthly meter rent and standing charges. The utility will cater for meter replacement and servicing as complementary to their O+M Costs.

Where the applicant has not achieved 100% metering, they must propose a fixed monthly charge for customers without meters (Un-metered Customers) and conditions will be prescribed for the to achieve 100% metering within specific timelines, failure to which penalties shall be imposed.

## 5.7 Rising Block Tariffs for Metered Residential Customers

Wasreb prescribes applicants to propose a rising block tariff for metered residential customers, where higher tariffs apply for customers that consume beyond a threshold volume or each month (for example 6 m<sup>3</sup>/month). With a rising block tariff, the price per unit of water consumed must be lowest for the first block of consumption and higher in the subsequent blocks.

The Regulatory Board will consider block structures other than rising block, provided the WSP provided affordability studies or other information which supports an alternative structure and can prove that consumers pay according to volume consumed. The Regulatory Board requires WSP's to propose tariff structures, including consumption blocks.

## 5.8 Multi-Dwelling Units (MDUs)

To implement equity in pricing, on gated communities and multi-dwelling housing units served by a single connection, a tariff may be prescribed at a flat cost recovery rate. This shall apply if the units do not incorporate individual metering. The applicant will be required to provide information on any such connections including the billed volumes by these to facilitate development of a workable tariff.

## 5.9 Sanitation Service Tariffs

If the applicant is directly involved in providing sewerage services, they must maintain separate cost centres i.e., have a distinct cost centre for Water Supply services and a distinct cost centre for sewerage services. Where the applicant's costs bundle both water supply and sewerage services, it shall apportion administrative and overhead costs between the two services as appropriate, ensuring that the sum does not exceed the total administrative costs.

As part of the tariff structure, the applicant will propose a pricing structure that may have: a fixed sewerage charge for all households with sewerage connections,

- 1) a volumetric sewerage charges. Because sewerage metering is not practical for residential customers, the volumetric charge can be based on a percentage of the water usage volume, this is calculated at 75% of the total water usage, or
- 2) a combination of both a fixed charge and volumetric charge.

Applicants that offer or facilitate the development of on-site sanitation services will be eligible for a special sanitation surcharge reflecting real costs that may be included to the tariff. As part of its Business Plan, the applicant must propose the type of services to be provided and estimate the costs. The applicant may also propose a sanitation surcharge to cover these costs as part of its Tariff Adjustment Proposal. As part of the Business Plan, the applicant must propose performance targets related to on-site sanitation and demonstrate achievement of these targets.

## 5.10 Tariffs at Water Kiosks and Standpipes

For Informal settlements where a household connection may not be possible, Water Kiosks and Standpipes may be utilized. For these, the water price per cubic metre should not be higher than the social block of the tariff. This price should already include the margin of the kiosk operator but should not be significantly higher than the social tariff for household connections. The applicant has the obligation to ensure that the Kiosks/ Standpipes charge the consumers as per the tariff to be determined. Other income generating activities of the kiosk operator should be promoted to enhance operational incentives, but not be conflictive with the core-business of provision of the water service.

## 5.11 Tariffs for Commercial and Administrative Consumers

The water tariffs applied to commercial, industrial and administration customers should be at full cost recovery. The lower block is expanded to range from 1 – 50 m<sup>3</sup>. The subsequent blocks are incrementally priced to give an incentive for water conservation.

## 5.12 Miscellaneous Charges

These shall be prescribed as per a standard template provided by Wasreb.

## 5.13 Tariff Indexation

WASREB has developed an indexation formula for adjustment of water tariffs to be used by defined water service providers.

The formula is intended to achieve the following:

- a) Ensure uniform liquidity during a utility's tariff period.
- b) Avert steep tariff increases at subsequent tariff reviews thereby shielding consumers from steep price increases every other tariff period.
- c) Improve the credit worthiness of utilities to enable them access loans for improving service delivery, since potential debt repayment will be safeguarded from inflationary pressure on O&M

The prices determined using the formula shall be the prices of water. The determined prices are proposed to become effective on the 15th day of July every year and shall remain in force until the 14th day of July the following year.

The price in Kenya shillings per m<sup>3</sup> of water is proposed to be determined as follows:

- I. Tariff (**T<sub>0</sub>**) is composed of the following components.

$$T_0 = O\&M + DS + AR + I$$

Where:

**O&M** = Operations and Maintenance component

**DS** = Asset Debt Service Component

**AR** = Asset renewal Component

**I** = Investment Component

- II. New Tariff to be calculated as follows;

$$T_1 = O\&M (1 + IW_t) + AR + DS + I$$

Where:

$T_1$  = New Tariff

$Iw_t$  = Index for water services at time t

III. The Index for water services at time t is calculated as follows:

$$Iw_t = X(I_t)$$

Where:

$I_t$  = Overall inflation rate at time t

$X$  = Performance Adjustment on the overall inflation rate at time t

The performance Adjustment ( $X$ ) is calculated as follows;

$$X = \left\{ \frac{TNRW_t}{NRW_t} + \frac{Tpe_t}{PE_t} \right\}$$

Where:

$TNRW_t$  = Target for Non-revenue water for time t

$NRW_t$  = Actual Non-revenue water at time t

$Tpe_t$  = Target personnel costs to O&M for time t

$PE_t$  = Actual Personnel costs to O&M at time t

WASREB will implement  $Iw_t$  at least 50% of the overall inflation rate  $I_t$  and not greater than the overall inflation rate;

$$0.5(I_t) \leq Iw_t \leq I_t$$

The formula is proposed to be first applied to only the large and very large water utilities which have a regular tariff approved after 1st July 2017 and are not dependent on subsidy, only for the duration of the validity of the tariff.

Upon attainment 150% O&M cost coverage, the utility's tariff is proposed to be capped and the formula shall not be on this utility's tariff.

#### 5.14 Documents Required for the Tariff Adjustment Proposal

To facilitate the preparation of a tariff adjustment proposal, standard formats have been developed. With the aim to enable a fast reply to a Tariff Adjustment Proposal, all WWDAs/WSPs must adhere to the standard formats.

WASREB expects the WWDA's/WSP's to hand in both, a hard and a soft copy of the Tariff Adjustment Proposal. The standard formats will be provided in electronic version. The WWDA must submit the following documents for a Tariff Adjustment Proposal of any WSP:

##### 1) Tariff Adjustment Proposal:

- Annex 1: Justification for Tariff Adjustment Proposal
- Annex 2: General Data
- Annex 3a: Analysis of WSP Expenditure
- Annex 3b: Analysis of WWDA Expenditure
- Annex 4: Debt Amortization Plan for WSP/WWDA
- Annex 5a: Performance Analysis WSP

- Annex 5b: Performance Analysis WWDA
- Annex 6: Calculation of average Tariff
- Annex 7: Revenue Projections / Tariff Structure
- Annex 8: Tariff Schedule
- Annex 9: General Performance Assessment
- Annex 10: Tariff Proposal Submission Checklist
- Annex 11: Tariff Study:

All WSPs with a minimum monthly turnover of **KES 120 million** and any other WSPs identified by the Regulatory Board, must prepare a tariff study as part of the Regular Tariff Adjustment Proposal. The WSP may contract a third party to prepare the study on their behalf. The minimum requirements of the study are described in the Annex.

The tariff study should contain an Affordability Analysis which should prove that households do not spend more than 3-5% of their monthly in-come for water and sanitation services of the WSP.

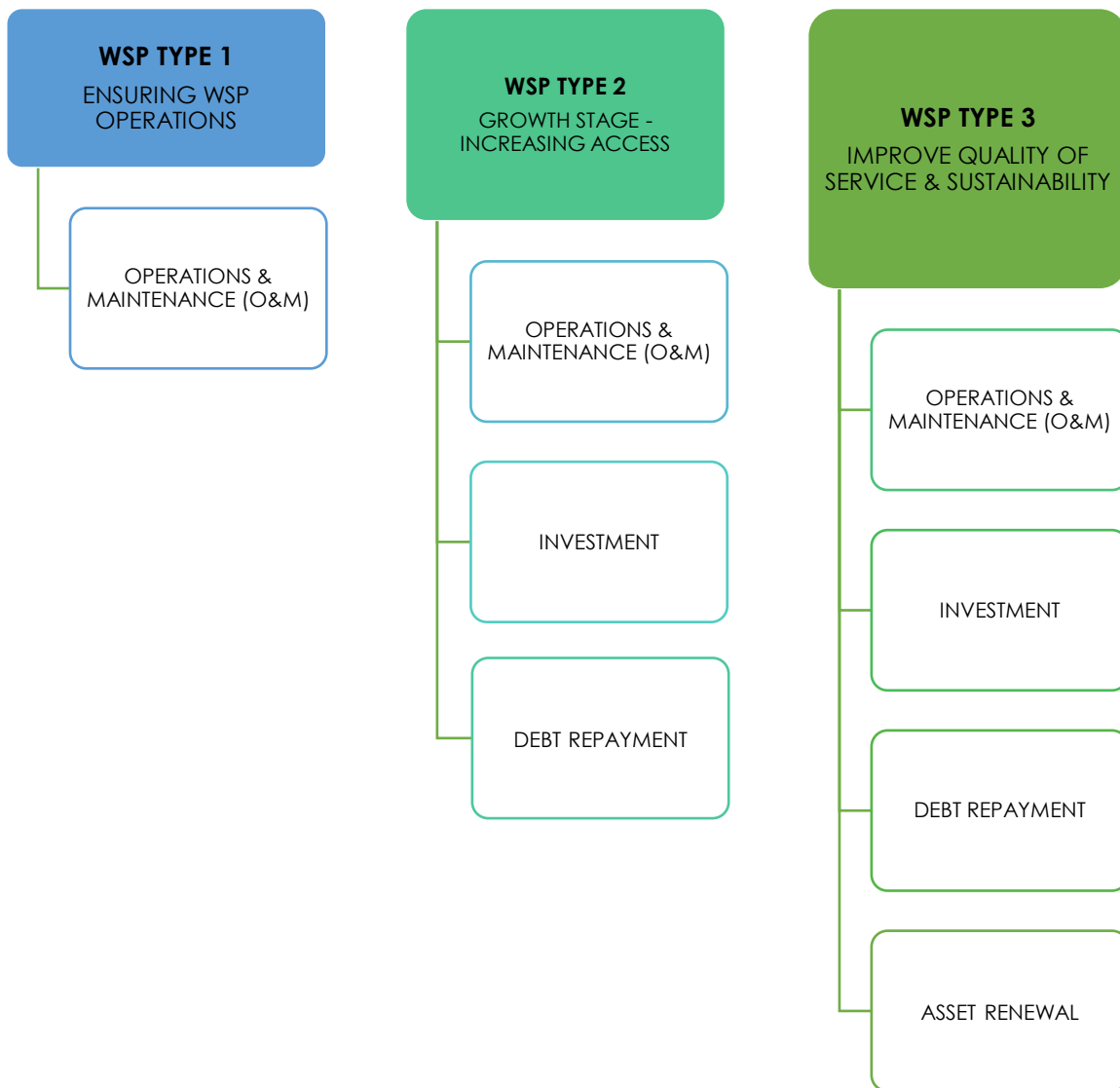
- 2) Business Plan (Current version) and Summary of Implementation Status for the WSP, including Capital Investment Plan (as required in Business Planning Guidelines).**
- 3) Financial Statements (Audited Statements required) for the WSP/WWDA**

Annex 11 must only be provided by WSPs that have a minimum monthly turnover of KES 120 million and any other WSPs identified by the Regulatory Board. The tariff study contains an Affordability Analysis which should prove that households do not spend more than 3-5% of their monthly in-come for water and sanitation services of the WSP.

## **6.0 Process of Tariff Analysis**

### **6.1 Tariff Composition:**

Generally, the tariff approved by the Regulatory Board consists of the following costs. As well are displayed the classification of WSP's in the three different categories and the costs associated with each category:



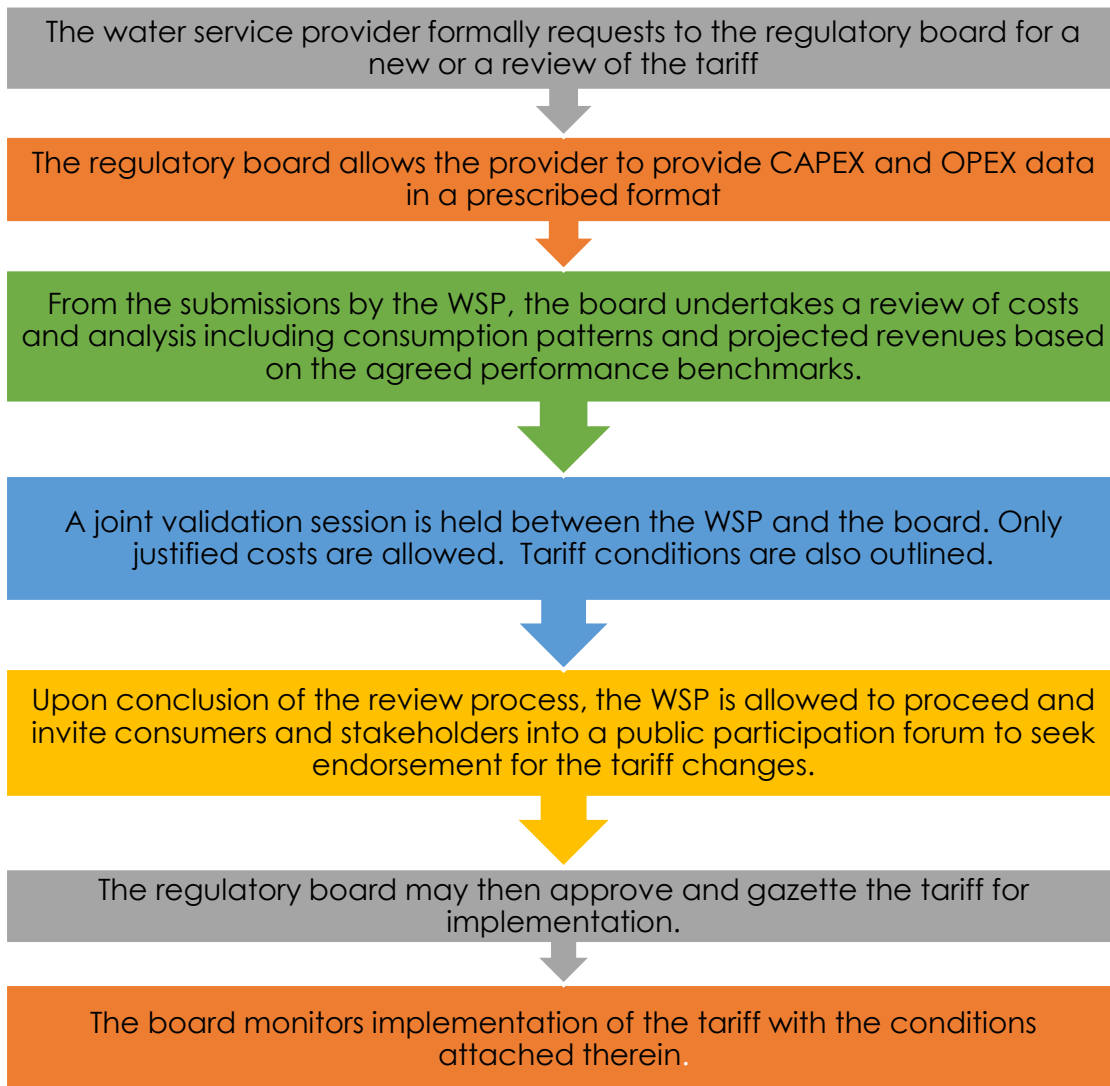
The Regulator will assess and approve costs according to each cost category. The approved tariffs allow the WSP/WWDA to generate the necessary revenues to cover the projected justified costs incurring in each category. WWDA's/WSP's are not allowed to shift expenditures between the different cost categories without previous approval of the WASREB.

Asset Renewal will only be allowable for WSPs/WWDAs that have achieved over 150% O+M cost coverage.

## 6.2 Steps of Tariff Application

The Regulatory Board will follow a standardized process for Regular Tariff Adjustments.

The process has seven steps:



### 6.3 Cost Analysis of WWDA/WSP

The Regulatory Board will decide the extent to which O&M Expenditure of WSP's/WWDAs are "reasonable and necessary" for the provision of efficient services. This will be done to ensure that consumers are only paying for justified costs and are protected against excessive tariffs. The current level as well as potential increases will be analysed in detail, as personnel and general administration costs. The Regulatory Board will not only analyse the WSPs/WWDAs costs, but also compare the cost of WSPs with other similar WSPs and the cost of WWDAs with other WWDAs. If the explanations given by the WSP/WWDA are not satisfactory to convince WASREB that the current level of increases is justified, they may propose deductions from the projected costs. The reasons for deductions shall be clearly explained.

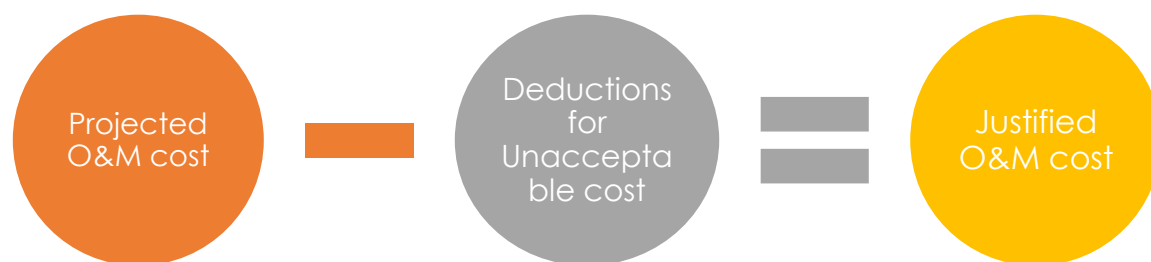
In certain cases, the Regulatory Board may "fast-track" the process of the tariff application, consistent with the process described in these Guidelines. "Fast tracking" means the Regulatory Board will streamline the approval process and exercise less scrutiny on specific expenditure terms. WSPs that will be eligible for fast-tracking may include those that are not yet recovering O&M costs and repaying their debts, small rural schemes, and WSPs that are meeting or

exceeding performance targets. Fast tracking will be at the discretion of the Regulatory Board.

### 6.3.1 Justified Costs for WSP/WWDA

The analysis of the projected O&M costs of the WSP/WWDA might lead to deductions. The Justified costs are calculated as follows:

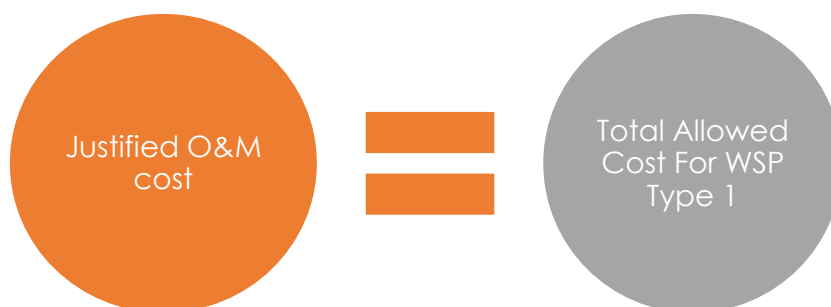
#### **WSP/WWDA Cost Analysis**



### 6.3.2 Total Allowed Costs for WSP Type 1

The total allowed costs for WSP include as well the Regulatory Levy and are calculated as follows:

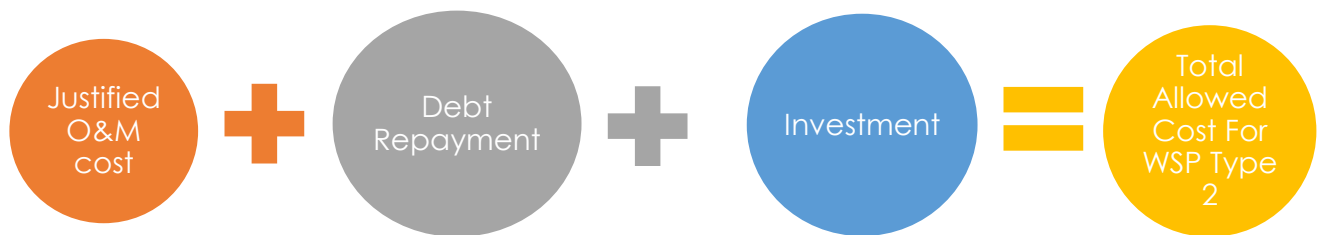
#### **Total Allowed Cost for WSP-Type1**



### 6.3.3 Repayment of Debts – Total Allowed Cost (TAC) for WSP Type 2

Depending on the amount of debts, repayment costs will be added to the Total Allowed Cost. The Regulatory Board will verify, if the level of repayment is appropriate and the burden on the tariff is affordable to the consumers. The level of repayment should on the other hand allow a quick repayment of debts in order to improve the liquidity situation of the WSP/WWDA in the long run. The following formula applies for WSPs Type 2:





### 6.3.4 Increase of Tariff towards full cost recovery – TAC for WSP Type 3

It is the aim of WASREB to allow tariffs to be set to reach full cost recovery after the WSPs have achieved 100% O&M cost coverage and are able to repay debts. The preconditions are that the ability to pay, as well as, that the O&M costs are within reasonable limits and performance is acceptable.

Following the assessment of costs, performance and debts, the Total Allowed Costs justified costs for WSP type 3 are described below;



For the purpose of simplicity, it is assumed that full cost recovery is reached when the revenue covers about 150% of O&M cost. Full cost recovery means, that additionally to the coverage of O&M costs and the payment of debts, depreciation (Capital Works Maintenance) and new investments (New Capital Works) are realized.

Asset renewal will only be allowable in situations where the WSP/WWDA has achieved an O&M coverage of more than 150%.

## 6.4 Performance Monitoring

The performance analysis will concentrate on certain indicators to determine whether there are deviations from the agreed performance.

### 6.4.1 Monitoring of Performance of WSPs/WWDAs

The Regulatory Board will verify the WSPs/WWDAs progress against Minimum Service Levels, agreed performance indicators in the license, targets agreed in the last Tariff Approval and other agreements.

The following indicators as minimum requirements will be taken into account in the performance analysis of WSPs:

1. Water Coverage (%)
2. Sanitation Coverage (%)
3. Drinking Water Quality
4. Hours of supply
5. Non-Revenue Water (NRW)
6. Metering Ratio
7. Staff Productivity (Staff per 1000 connections)
8. Personnel Expenditure as Percentage of O&M costs (%)
9. O&M Cost Coverage (%)
10. Revenue collection efficiency (%)

The following indicators as minimum requirements will be taken into account in the performance analysis of WWDAs:

1. Drinking Water Quality
2. Hours of supply
3. Personnel Expenditure as Percentage of O&M costs (%)
4. Revenue collection efficiency (%)
5. O&M Cost Coverage (%)
6. Non-Revenue Water (NRW)
7. Staff Productivity (Staff per 1000 connections)
8. Metering Ratio

#### 6.4.2 Key Performance Indicators

- 1) **Water Coverage** - This refers to the number of people served with drinking water expressed as a percentage of the total population within the service area of a utility. It is critical in tracking the progressive realization of the right to water regarding the accessibility component in the normative content of the right to water.
- 2) **Sanitation Coverage** - This refers to the number of people with access to improved sanitation facilities as a percentage of the total population within the service area of the WSP. It measures performance about the provision of sewerage and non-sewered sanitation. Improved sanitation facilities include flush or pour-flush to piped sewer systems, septic tanks, ventilated improved pit latrines and traditional pit latrines (with a squatting slab).
- 3) **Drinking Water Quality** - These measures the potability of the water supplied by a utility. It is a critical performance indicator since it has a direct impact on the health of consumers. This is a weighted composite indicator measuring compliance with residual chlorine standards (40%) and bacteriological standards (60%). The two sub indicators are also composed of two components each, namely:
  - i. The number of tests conducted as a percentage of the number of tests planned in accordance with the Guideline on Water Quality and Effluent Monitoring (GWQEM) weighted at 67%.
  - ii. The number of samples within the norm as a percentage of the total

number of tests conducted weighted at 33%.

WASREB continues to monitor monthly reporting on water quality by the utilities and all utilities are required to put in place a water safety plan within the first year of issuance of a license

- 4) **Hours of Supply** - This refers to the average number of hours per day that a utility provides water to its customers. It measures the continuity of services of a utility and thus the availability of water to the customer. It is an important indicator on quality of service and shows the extent to which the utility is making progress towards the fulfilment of the human right to water and sanitation in terms of availability.
- 5) **Non-Revenue Water** - This is the difference between the amount of water put into the distribution system and the amount of water billed/unbilled as authorized consumption. It comprises of both commercial (apparent) losses and physical (real) losses. It is an operational indicator contributing to the sustainability question of the utilities and therefore is a significant measure that facilitates evaluation of the efficiency of operations by the utilities.
- 6) **Metering Ratio** - This quantifies the number of connections with functional meters as a proportion of the total number of active water connections. Metering of connections is designed to ensure that billing is based on actual consumption and hence customers only pay for what they use. As part of routine maintenance, the utility is expected to test the functionality of these meters on a regular basis, either by sampling them for calibration or by replacing the old ones through the implementation of a metering policy.
- 7) **Staff Productivity (staff per 1,000 connections)** - This refers to the number of personnel employed per 1,000 connections (total active water and, where applicable, sewer connections). It assesses the effectiveness of employee utilization. The size of a utility, the nature of human settlement (distance between connections and number of towns served), the skills mix and extent of outsourcing for services and whether a utility provides water alone or water and sewerage services together, among other things, all which have an impact on employee productivity.

When it comes to evaluating employee productivity, Large utilities are expected to gain from economies of scale. As a result, category-specific benchmarks exist depending on the utility's size.

- 8) **Personnel Expenditure as a Percentage of O+M Costs** - Personnel costs as a percentage of overall O&M costs determines if personnel costs are proportionate to overall O&M costs as defined by sector benchmarks.

Revenue Collection Efficiency Revenue Collection Efficiency measures coherence between collected revenues relative to billed amount. The indicator is a reflection of the effectiveness of the revenue management system in a utility. Importantly, only the collected amount can reliably fund the operations on the WSP.

- 9) **Operation and Maintenance Cost Coverage** – This is a measure of utility's ability to break-even in its operational costs, while relying on internally generated revenue. This indicator is a proxy measure for financial stability and resilience from external shocks. For instance, in the wake of COVID-19, the level of O+M Cost Coverage

directly translated to utilities' ability to sufficiently provide services amidst the crisis linked to the pandemic. Essentially, an O+M coverage above 150% positions a utility at full cost coverage implying the financial muscle to meet its O+M costs, service debt and renew its assets.

For a utility to be self-sustainable, the following levels of cost-coverage defined in Table 2 have to be met.

Cost Components	% O&M Cost Coverage
O&M Cost	100%
O&M Cost + Debt Service + Minor Investment	101-149
Full Cost Recovery	≥ 150

Table 2: Level of Cost Coverage and Cost Components

10) **Revenue Collection Efficiency** - This is a measure coherence between collected revenues relative to billed amount. The indicator is a reflection of the effectiveness of the revenue management system in a utility. Importantly, only the collected amount can reliably fund the operations on the WSP

The scoring limits and the benchmarks of the KPIs are presented in Table 3.

KPI CLUSTER	INDICATORS		SECTOR BENCHMARKS			
			Good	Acceptable	Not Acceptable	
QUALITY OF SERVICE	1	Water Coverage, %		>90%	80 - 90%	<80%
	2	Drinking Water Quality, %		>95%	90 - 95%	<90%
	3	Hours of Supply, No.	Population >100,000	21 - 24	16 - 20	<16
	Population <100,000		17 - 24	12 - 16	<12	
OPER ECONOMIC EFFICIENCY	4	Personnel Expenditure as Percentage of O&M Costs, %	Large and Very Large	<20%	20 - 30%	>30%
			Medium Companies	<30%	30 - 40%	>40%
			Small Companies	<40%	40 - 45%	>45%
OPER ECONOMIC EFFICIENCY	5	O+M Cost Coverage, %		≥150%	100 - 149%	≤99%
	6	Revenue Collection Efficiency, %		>95%	95 - 85%	<85%
OPERATION	7	Non-Revenue Water, %		<20%	20 - 25%	>25%

KPI CLUSTER	INDICATORS		SECTOR BENCHMARKS		
			Good	Acceptable	Not Acceptable
8	Staff Productivity (Staff per 1000 Connections), No.	Large & Very Large Companies	<5	5 - 8	>8
		Medium & Small (less than 3 towns)	<7	7 - 11	>11
		Medium & Small (3 or more towns)	<9	9 - 14	>14
9	Metering Ratio, %		100%	95 - 99%	<95%

Table 3: KPI Benchmarks

#### 6.4.3 Performance Targets

The WSP should attained all the agreed performance improvement targets agreed in the license issued and the tariff gazette. The progress of the utility on the KPI will be continuously monitored by the regulator. Non-compliance will attract the necessary enforcement action as stipulated in the Water Act.

#### 6.5 Balancing the Adequate Tariff Level

In the calculations for the average tariff, both efficiency criteria, “**collection efficiency**” and “**non-Revenue water**” are taken into account. By applying the agreed benchmarks for each criterion in the calculations as outlined below, the WSP/WWDA are automatically penalized if they fail to achieve the set benchmarks.

##### 6.5.1 Non-Revenue Water (NRW)

The following calculations show how the average tariff (excl. collect efficiency) is derived:

For these calculations, the individually agreed benchmark for NRW is used. If the actual NRW still exceeds the benchmark, it reduces the actual quantity billed, thereby increasing the “Projected Average Cost (per m<sup>3</sup>)”. The average tariff would then be too low to cover the “Projected Average Costs”. Hence, each WSP has a clear incentive to meet the agreed benchmark.

This mechanism assumes that the demand for water is not yet satisfied. This implies that an increased amount of water available for distribution will increase the amount of water consumed. The assumption is believed to be realistic in the

current set-up, at least for the next few years due to the low pressure in most networks and the considerable urban population still unserved in most towns.

### **Satisfied Demand for Water**

In cases where the assumption of a non-satisfied water demand is not true, NRW above the benchmark would be compensated by a higher quantity produced, while the quantity billed would be assumed to be constant. A higher quantity produced entails increased actual production costs compared to the projections. Again, the average tariff would then be too low to cover the “Actual Average Cost”, thereby setting again an incentive for the WSPs to achieve the benchmark.

#### **6.5.2 WSPs with Metering Ratio Below 100%**

Each WSP shall improve the metering ratio as quickly as possible at least according to the agreed benchmarks. Despite this, it is recognized that most of the WSPs currently have a metering below 100%. The above-described mechanisms, however, functions only for metered connections. In order not to give an advantage to WSPs with low metering ratios, the below described formulas apply to WSPs with metering ratios below 100% to account for cases when these WSPs fail to meet the agreed benchmark for NRW.

“Actual NRW” is defined as “Total Quantity of Water Produced” minus “Total Quantity billed”. To get at least a clear figure for the quantity produced, each WSPs is requested to install bulk and district meters as soon as possible. This will be reflected in the individual benchmark for metering ratio.

#### **6.5.3 Collection Efficiency**

While the equation is generally binding, it implies a collection efficiency of 100%. However, it is recognized that most WSPs will not be able to collect 100% of the billed amount. Incentives shall be set to continuously increase the collection efficiency.

Therefore, the following benchmarks will be set in consideration of the current levels of each individual WSP:

Newly established WSP's are expected to reach a collection efficiency of 85% within two years after the commencement of operations.

#### **6.5.4 Determining the Average Tariff**

The following steps are followed to consider the benchmark collection efficiency:

## 7.0 PUBLIC CONSULTATION

Section 139 of the Water Act 2016 imposes a requirement for public consultations in relation to any application made or action proposed to be taken under this Act. It also provides for the procedure of public consultations.

### 7.1 Pre-Consultation Process

1. The applicant shall develop an appropriate license review application and obtain a 'No Objection' from the respective County Government
2. The WSP shall submit the application to WASREB.
3. WASREB reviews the application and gives guidance on the content of the application and areas that require review or adjustment. This guidance may be given in (a) meeting(s) between the WSP and WASREB where agreed action points are signed by all parties.
4. Once a suitable date and venue has been agreed on, the WSP shall have the public consultation in the area where the WSP provides service.

### 7.2 Procedure of Public Consultation

1. The regulator shall publish a notice, in relation to the application:
  - I. In at least one national newspaper of daily circulation; and
  - II. In at least one Kenyan radio station broadcasting in that locality.

The notice shall—

- a) Set out a summary of the application or proposed action.
  - b) State the premises at which the details of the application can be obtained.
  - c) Invite written comments on or objections to the application.
  - d) Specify the person to whom any such comments are to be submitted; and
  - e) Specify a date not earlier than thirty days after publication of the notice by which any such comments are required to be received and specify a date not earlier than 20 days after the publication of the notice the date of the public consultation meeting. The publication/ notice inviting public comments on tariff application shall be run by WASREB.
2. The notice shall also be published in posters to be displayed prominently in the offices of the WSP and in strategic places such as markets and places of worship in the service area of the WSP.
  3. Letters shall be written to the key stakeholder groups inviting them to the public consultation meeting. Stakeholders are persons who have a relevant interest in the company's business. The following stakeholders shall be invited to the stakeholder meeting.
    - I. Consumers with or without connections but residing in the service area of the WSP.
    - II. Residents – through the relevant residents' associations and include the informal settlements
    - III. Main consumers of water in commerce, industry, and agricultural sectors
    - IV. The County Government
    - V. The Relevant Water Works Development Agency

- VI. The government administrative agencies including County Commissioners, and chiefs.
- VII. Active civil society groups in the area
- VIII. Women organizations in the area
- IX. Churches / mosques in the area

The key management staff of the WSP must attend the consultation meeting.

### **7.3 Agenda of the Public Consultation Meeting**

The agenda will include presentations on the following:

1. Introduction – where all presents are acknowledged, as well as, the purpose of the meeting
2. WSP profile- shareholders, Board of Directors, staff, area of coverage, targets set.
3. Relationship with County Government and WWDA
4. WSP performance in the last five years
5. WSPs costs and obligations under the Water Act 2016. Emphasis should be given on activities under the service needs plan and capital works plan of the WSP and the shortfalls experienced.
6. Necessity of tariff adjustment indicating what will be funded by the adjustment.
7. The proposed adjustment in tariff structure and level
8. Interactive session with audience and questions answered. Audience must understand that views are sought so that all concerns can be considered by WASREB in licensing the WSP. The consultation process is not to seek permission.

#### **a. WSP Post Consultation Process**

The regulator shall prepare the report of the public meeting and have legible attendance list for the public consultation meeting, with the names, signatures, and contacts of all attendees.

WASREB shall perform analysis on the application received and consider the sentiments received at the WSP and WASREB in assessing the information submitted.

WASREB shall decide and if satisfied with the application, approve a suitable tariff.

### **7.4 Public Notification of Approved Tariff**

WASREB shall publish the approved tariff and the reasons for the decision in the Kenya Gazette.

1. WASREB CEO shall sign the notice of tariff adjustment.
2. A One-month notice period must always be issued.
3. The WSP shall make this gazette notice available on its website and prominently display it at their premises.

## **8.0 Tariff Implementation and Monitoring**

Upon approval of the Tariff Adjustment by the Regulatory Board, the WWDA shall notify WSP and direct the WSP to implement the tariff adjustment.



## 8.1 Tariff Implementation

The WSP shall give Customers one month notice prior to a tariff increase. The WSP shall notify customers by placing announcements in the newspaper and including a notice with the Customer's water bill.

In addition, the WSP shall ensure that the documentation of the current tariff is available to all Customers during business hours. The WSP shall post copies of the Tariffs in various locations to which the public has access to including, but not limited to the utility's website, pay stations, public affairs offices of the WSP, water kiosks, and other public facilities where public notices are posted.

## 8.2 Tariff Monitoring

Wasreb shall monitor the correct implementation of Tariffs as described in this guideline and shall notify the WSP of any deviation. If the Regulatory Board finds that the WSP adopts a tariff that is more than the Tariff Adjustment Approval, it shall issue a Notice of Correction to the WSP.

In case the WSP has overcharged customers, it shall correct the tariff in the next billing cycle and issue a refund for the amount overcharged to each customer affected by the incorrect application of the approved Tariff Adjustment. The WSP must also publish an apology to consumers in newspapers, and post copies on public notice boards and kiosks.

The Regulatory Board reserves the right to bring the WWDA and WSP to court for charging excess tariff and may revoke the license issued.

## 8.3 Default on Tariff Conditions

WASREB shall monitor the correct implementation of Tariffs .

If WASREB finds that the WSP adopts a tariff that is in excess of the Tariff Adjustment Approval, it shall issue a Notice of Correction to the WSP, and send a copy to the County Govt.

In case the WSP has overcharged customers, it shall correct the tariff in the next billing cycle and issue a refund for the amount overcharged to each customer affected by the incorrect application of the approved Tariff Adjustment.

The WSP must also publish an apology to consumers in newspapers, and post copies on public notice boards and kiosks.

WASREB will levy penalties for continued non – compliance with tariff conditions as per Kenya Gazette Notice No. 12188 of Nov 2018 .

The Regulatory Board reserves the right to bring the WSP to court for charging excess tariff, and may revoke the license







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